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TO : The Secretary
THROUOE: S/S
FROM : INR - Roger H.

SUBJECT: The Soviet Position on Berlin and Germany with additional access in the Geneva Conversations. March 11-26 monitored by SCS

This paper was prepared in response to a request by the Director of the Berlin Task Force. It is one of several ~~similar~~ analyses of the Soviet position in bilateral talks.

Date: 11-28-89 19

Modus Vivendi Neither Accepted Nor Rejected

The principal new element in the third round of US-Soviet conversations on Berlin and Germany was the idea of a modus vivendi broached by Secretary Rusk. Gromyko neither explicitly accepted nor explicitly rejected the general idea of a modus vivendi.

Gromyko carefully avoided any expression of agreement with the premise that an overall settlement of the problems of Berlin and Germany in the near future was unlikely. He refused to accept a distinction between continued efforts along the lines of earlier negotiations and a recognition of the fact of disagreement and discussion of ways to cope with it.

On the other hand, Gromyko did enter into a discussion of a possible initial agreement on broad general principles, giving the Secretary a paper on this subject on March 19 and offering detailed criticism of the paper handed him by the Secretary on March 22.

Submaximum Position Restated

While Gromyko's March 19 paper was in the form of a reply to the Secretary's oral suggestion of a modus vivendi, its content -- together with the Soviet comments on it and a companion paper of March 20 on access -- constituted a restatement of the Soviet "submaximum" position elaborated in the Thompson-Gromyko talks. January 2-March 6.

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In presenting the March 19 paper, Gromyko proposed that he and the Secretary agree on the principles it contained and proceed to work out the implementing agreements, which would then be referred to the heads of government. Gromyko gave no indication of when the bilateral discussions should be broadened to include the UK and France, or if the heads of government to whom he referred meant only Khrushchev and the President. Gromyko did not raise the question of heads of governments participating in the negotiations again in the talks, and when Secretary Rusk at the March 26 meeting asked him for suggestions on future channels for talks, he extended a tentative invitation for the Secretary to visit Moscow, and left the question open. The March 19 paper stipulated that agreements on all of the matters raised in it would have to be reached simultaneously.

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Peace treaty. The Soviet statement of principles was predicated upon the assumption that the USSR and "a number of other states" would conclude a peace treaty with the GDR, and that when the peace treaty is signed, agreements by the parties to the statement of principles on the other points listed in the document would be taken into account. Gromyko stated that the USSR would not abandon its intention to sign a peace treaty, and he said on March 22 that a peace treaty would not be a formal act but a political act which must be accompanied by certain changes, certain measures, and the solution of certain questions repeatedly mentioned to the Western powers. Gromyko did not, however, spell out precisely what these changes would be. While reiterating the separate treaty threat, Gromyko did not state any timelimit, and several times indicated that the USSR was prepared to negotiate patiently. Although his assistant, Semenov, objected to the context of the reference to the peace treaty in the US draft of principles in a conversation with Messrs Kohler and Bohlen on March 24, Gromyko did not allude to the point in his own critique of the US paper.

Free city. The Soviet paper of March 19 restated the Soviet position calling for the creation of a "free", "demilitarized" city and the termination of the occupation regime. It carried over from earlier Soviet statements such provisions as continuation of the present social order, prohibition of fascist or militarist organizations and of war propaganda and revisionism, and the right of the free city to maintain diplomatic, consular, trade and cultural (but not military) relations with other countries. There were two indications of possible change in the Soviet blueprint from a "free city." First, the March 19 paper did not spell out its existence as an international entity quite so formally as the Soviet draft statute and protocol of January 12. While describing the "free city" as an "independent political entity," the March 19 paper did not provide for its participation in international organizations or the UN. Second, Semenov, in his March 25 conversation with Kohler, Bohlen,

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Land Thompson, indicated that the USSR was not opposed to special ties between West Berlin and the Federal Republic and that an agreement on this point could be reached. Semenov's remark went further than Gromyko had ever gone in echoing the December 27 Soviet memorandum to Krcil in the US-Soviet bilateral exchanges. Failure of the March 19 draft to repeat the January 12 stipulation on the free functioning of "democratic" (a euphemism for communist or communist-front)-parties and organizations in the "free city" may be indicative of Soviet flexibility on this demand.

Garrisons. The standing Soviet proposal, last committed to paper on January 12, had provided for three alternatives for the temporary presence of token garrisons in West Berlin: (1) equal contingents from the USSR, US, UK, and France, (2) UN contingents, or (3) contingents from neutral countries. Gromyko withdrew the first alternative, and the March 19 paper provided for the replacement of American, British, and French troops with token contingents of the UN or of neutral states. Gromyko never replied to the Secretary's March 20 question of whether UN troops might mean British, French, and American troops. b1a3

Along with the demand for withdrawal of Western troops, the March 19 paper also stipulated new restrictions on military access to the "free city." In the January 12 drafts it had been proposed that military personnel and shipments would "freely avail themselves" of land and air communications, and control over their movements would be carried out reciprocally by the four powers. The March 19 paper stipulated that military movements over land routes would involve inspection by GDR authorities of transit documents certifying that the persons and freight involved belonged to the token contingents. Personnel would undertake to comply with the "laws and procedures" of the country of transit and with sanitary and other rules generally accepted in international practice. Moreover, in an apparent effort to undercut the rationale for an arrangement like the present air corridors, the March 19 paper stipulated that the volume of military traffic including military transport planes would be determined by the "actual need" of the contingents. Although a detailed paper on civilian access was handed to the Secretary on March 20, there was none on military access. DIA 5

Relation of Troop Withdrawal and Access Proposals. The nature of the relation between the Soviet demand for the withdrawal of Western forces from Berlin and the Soviet proposals on access was obscure at the end of the talks. As the talks concluded, Gromyko was unwilling to state categorically that the Soviet proposals on access either were or were not contingent upon Western troop withdrawals, and there appears to be a measure of Soviet flexibility in this regard.

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FAt the March 23 meeting Gromyko emphasized that the new Soviet proposals on access were linked to the replacement of Western forces with UN or neutral contingents and could be considered only in that context. On March 25 Semenov indicated that the nature of the relation between the two might be negotiable. He told Kohler, Bohlen, and Thompson that the question of the presence of Western forces in West Berlin should be put aside for consideration by the Foreign Ministers. He also stated that the Soviet proposal on access was linked not to the Soviet proposal on the status of West Berlin but to the question of status as such.

The following day Gromyko was somewhat less forthright. He stated that the US now had an opportunity to consider the problem of transit thoroughly and reply to the Soviet views on transit as such, and added that, of course, transit would be to a West Berlin whose status would have to be agreed upon. Later in the conversation Gromyko reaffirmed the link to the Soviet proposal on status. However, in the final portion of the conversation Gromyko indicated that a direct link between the Soviet access proposal could also be drawn.

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Access Authority. The principal new feature in the Soviet proposals on access is the introduction of a Soviet version of the idea of an International Access Authority. The Soviet and East German presentations of the access authority proposal were deliberately vague on the question of just how such a body might function. While Gromyko was interested in obtaining as detailed a US reaction to the proposal as he could, he did not explicitly state that the body could be veto-free.

The March 19 paper described the access authority as being composed of the USSR, US, UK, France, and "certain other countries" to be agreed upon by the parties -- presumably the US and USSR -- to the agreement on general principles. It stipulated that the authority would act as an arbiter in the event of any difficulties arising over the implementation of the agreements on access; it would have no administrative function and no power directly to control traffic or to make rules concerning communications between West Berlin and the outside world.

Gromyko on March 26 refused to comment on the question of a possible veto in the proposed access authority. He stated that voting in the authority would be a subject for later discussion. However, he observed that the voting procedure should be such as to satisfy all parties and not be in conflict with GDR sovereignty, but he did not elaborate on either point.

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Ulbricht's public exposition of the access authority idea differed in detail from the Soviet presentation. In his speech to the SED Central Committee Plenum, published in Neues Deutschland on March 24, Ulbricht explicitly stated that "of course such a concession requires that the occupation statute in West Berlin be eliminated and that the troops of the three Western Powers be withdrawn." He indicated that the agency to arbitrate possible disputes between the GDR and the US, Britain, or France would be a four-power body. He stated that it would be the Soviet Union's "responsibility," "together with the GDR," to settle a given dispute, but his statement did not elaborate on the nature of this "responsibility" and its possible implication of Soviet-East German control over the access authority. Ulbricht also announced that the GDR might accept recommendations regarding the guaranteeing of peaceful traffic to and from West Berlin from the guaranteeing powers or from an appropriate UN institution, but again did not spell out details.

Duration. For the first time in the present series of talks, the Soviet Union introduced two specific stipulations of duration which suggest the possibility that Moscow might revert to a form of an "interim agreement."

In the January 12 drafts handed to Ambassador Thompson, the Soviet Union proposed that the garrisons stationed in West Berlin would be "temporary." In the March 19 paper Gromyko stipulated that garrisons would be present for a period of time within the range of three to five years, to be specified by the parties. (Last summer GDR Politburo member Hermann Matern used the formulation "three to five years" as an acceptable limit for the stay of Western troops in West Berlin. In 1959 the basic problem respecting duration of an interim arrangement was what situation would obtain at the end of the period.)

In his March 26 conversation with the Secretary, Gromyko stated that the USSR assumed the duration of the agreement on transit would be the same as the duration of an agreement on status, thereby implying that both would be for some fixed period of time.

Civilian Access. Gromyko's March 20 paper on civilian access -- which he described as a working paper and not an aide-memoire or note -- was an elaboration of GDR demands for control over the access routes. In passing it to the Secretary, Gromyko may have hoped to elicit a response indicating the degree of East German control which the US might accept.

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The paper provided that the GDR would provide free transit of civilians, baggage, freight, mail, trains, motor vehicles and vessels as well as civil air flights. However, such "free transit" would be carried

C out in compliance with the sovereignty of the GDR over its territory and ~~the~~ space. Spelling out what was meant by the latter, the paper included: compliance by travellers with certain formalities to be agreed upon; observance by transit transportation of the laws of the country of transit relating to order and public security as well as sanitary laws and regulations; and that land and water routes would be "approximately" the same as those now in use.

Air routes would be provided by the GDR in compliance with agreements between the GDR and states or airlines (the latter presumably would allow flights of airlines of countries which did not recognize the GDR) concerned. Flights would be carried out in accordance with the flight control service of the GDR, with which the planes would be obliged to maintain radio contact. If an airline violated the laws of the country of transit or its agreement with it, it might be refused the right of further flights. While citizens of West Berlin would be allowed to travel on the basis of identity cards issued by the "free city" authorities, other passengers would be required to have passports and, in the absence of special agreements with the GDR, transit visas. Transit traffic would be subject to frontier and customs controls.

The March 19 paper provided that the authorities of the "free city" would themselves determine, in accordance with the legislation and the provisions of the statute of the "free city," who may or may not visit West Berlin. No attempt was made to spell out the implications of this paragraph, but presumably Gromyko intended to indicate an obligation on the part of the "free-city" authorities to enforce a provision against "militarist" and "revanchist" activities, and he may have envisaged possible Soviet recourse to the access authority in the event of failure to do so.

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Non-Transfer of Nuclear Weapons. The Soviet paper of March 19 for the first time in the talks specifically attacked potential NATO arrangements. The paper stipulated that there would be no transfer of nuclear weapons to the GDR or FRG either directly or indirectly through military alliances of which they are members.

Returning to the topic in his March 26 critique of the US paper on principles, Gromyko argued that the US paper referred to an agreement on the non-transfer of nuclear weapons of a much broader, international scope. Gromyko stated that the Soviet Union would accept a broad formula in a statement of principles provided that it included the phrase "including both German states" and that it was understood that solution of the broader problem would not delay application of the principle to both German states. Gromyko stated that a provision against transfer through third parties or military organizations should apply under both the universal and the two-German-states formulas.

Non-Aggression and Frontiers. The March 19 paper in effect raised the question of recognition of the GDR in its provision that all states parties to NATO and the Warsaw Pact would sign a non-aggression treaty. But in his March 26 discussion of the US paper on principles, Gromyko stated that a declaration would be an appropriate form of obligation, thereby implying that explicit recognition of the GDR would not be a precondition for a non-aggression pledge.

Gromyko professed to be puzzled by the language of the US provision on discussion of measures to reduce the risk of war by accident or miscalculation, and stated that a non-aggression agreement was a clear commitment to which nothing should be added which complicated the matter. He did not comment on the idea of discussion of this topic apart from a non-aggression agreement.

In commenting on the US paper, Gromyko argued that the demarcation line should be formalized as a border, and stated that both sides would have to work out a modus for formalization of borders at a later date. The March 19 paper had provided for special statements on German borders and non-use of force in disputes on the part of the GDR and FRG, in addition to the general provision in the non-aggression pact on renunciation of the use of force to change existing European boundaries; in his comments on the US paper, Gromyko again stated that the two German states must make some statements in this connection. b1c3

Other Comments on the US Paper

In his March 26 review of the US draft paper, Gromyko covered a number of other points including: b1c5

Reference to "Berlin." Gromyko argued that the heading "Berlin" reflected a desire to introduce the idea of one Berlin which is not negotiable, and said that the US had admitted West Berlin was a separate entity.

"Improving the Situation". Gromyko objected to the phrase "improving the situation," saying that it might mean an increase in the number of occupation troops or perpetuation of the occupation. He also objected to the idea of an interim declaration that established access procedures would remain in effect; the USSR, he said, proceeded on the basis of need for respect for GDR sovereignty.

German reunification. Gromyko stated that reunification was a matter for Germans to settle by agreement between the two German states; he said the US paper reflected only the US and not the Soviet viewpoint. b1c7

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Respect for GDR Sovereignty

Gromyko continued to use the formulation "respect for the sovereignty of the GDR" as a rationale for Soviet access proposals. He stated that the March 20 working paper on access represented the Soviet point of view on how freedom of access would be combined with respect for GDR sovereignty. Gromyko apparently hopes to elicit a more detailed reply on how far the US is prepared to go in accepting GDR participation in access arrangements, and by the same token the concept remains vague enough to allow Gromyko room for maneuver in future talks.

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Atmospherics

Although he introduced a demand for the withdrawal of Western troops from Berlin and was far from forthcoming in his March 20 access paper, Gromyko attempted to set a patient and amicable tone in the talks. He did not, as he had in his conversations with Ambassador Thompson, warn of possible hostilities. And, although he reiterated the Soviet threat to sign a separate treaty and leave the US to deal with the East Germans if the US and USSR could not come to terms, he did not express urgency or attempt to set any timelimit. Instead, he stressed on several occasions that the Soviet Union had been and would continue to be patient in negotiations.

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